



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5338

Introduced 2/5/2010, by Rep. Karen May

SYNOPSIS AS INTRODUCED:

New Act

Creates the Toxin-Free Kids Act. Provides that by July 1, 2010, the Department of Public Health shall, after consultation with the Environmental Protection Agency, generate a list of chemicals of high concern. Sets forth the conditions under which the Department, after consultation with the Agency, may designate a chemical of high concern as a priority chemical. Sets forth the applicability of the Act. Authorizes the Director of the Environmental Protection Agency to accept donations, grants, and other funds in order to carry out the purposes of the Act. Provides that the State may cooperate with other states in an interstate chemicals clearinghouse regarding chemicals in consumer products. Effective immediately.

LRB096 18597 RPM 33979 b

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Toxin-Free Kids Act.

6 Section 5. Definitions. In this Act:

7 "Agency" means the Environmental Protection Agency.

8 "Alternative" means a substitute process, product,
9 material, chemical, strategy, or combination of these that is
10 technically feasible and serves a functionally equivalent
11 purpose to a chemical in a children's product.

12 "Chemical" means a substance with a distinct molecular
13 composition or a group of structurally related substances and
14 includes the breakdown products of the substance or substances
15 that form through decomposition, degradation, or metabolism.

16 "Chemical of high concern" means a chemical identified on
17 the basis of credible scientific evidence by a state, federal,
18 or international agency as being known or suspected with a high
19 degree of probability to:

20 (1) harm the normal development of a fetus or child or
21 cause other developmental toxicity;

22 (2) cause cancer, genetic damage, or reproductive
23 harm;

- 1 (3) disrupt the endocrine or hormone system;
- 2 (4) damage the nervous system, immune system, or organs
- 3 or cause other systemic toxicity; or
- 4 (5) be toxic or have the likelihood of accumulating
- 5 toxic substances.

6 "Child" means a person under 12 years of age.

7 "Children's product" means a consumer product intended for

8 use by children, including, but not limited to, baby products,

9 toys, car seats, personal care products, and clothing.

10 "Director" means the Director of the Environmental

11 Protection Agency.

12 "Department" means the Department of Public Health.

13 "Distributor" means a person who sells consumer products to

14 retail establishments on a wholesale basis.

15 "Green chemistry" means an approach to designing and

16 manufacturing products that minimizes the use and generation of

17 toxic substances.

18 "Manufacturer" means any person who manufactures a final

19 consumer product sold at retail or whose brand name is affixed

20 to the consumer product. In the case of a consumer product

21 imported into the United States, "manufacturer" includes the

22 importer or domestic distributor of the consumer product if the

23 person who manufactured or assembled the consumer product or

24 whose brand name is affixed to the consumer product does not

25 have a presence in the United States.

26 "Priority chemical" means a chemical identified by the

1 Department of Public Health as a chemical of high concern that
2 meets the criteria set forth in Section 10 of this Act.

3 "Safer alternative" means an alternative whose potential
4 to harm human health is less than that of the use of a priority
5 chemical that it could replace.

6 Section 10. Identification of chemicals of high concern.

7 (a) By July 1, 2010, the Department shall, after
8 consultation with the Agency, generate a list of chemicals of
9 high concern.

10 (b) The Department must periodically review and revise the
11 list of chemicals of high concern at least once every 3 years.
12 The Department may add chemicals to the list if the chemicals
13 meet one or more of the criteria listed under the definition of
14 "chemical of high concern" as set forth in Section 5 of this
15 Act.

16 (c) The Department shall consider chemicals listed as a
17 suspected carcinogen, reproductive or developmental toxicant,
18 or as being persistent and toxic or very persistent by a state,
19 federal, or international agency. These agencies may include,
20 but are not limited to, the California Environmental Protection
21 Agency, the Washington Department of Ecology, the United States
22 Department of Health, the United States Environmental
23 Protection Agency, the United Nation's World Health
24 Organization, and European Parliament Annex XIV concerning the
25 registration, evaluation, authorization, and restriction of

1 chemicals.

2 (d) The Department may consider chemicals listed by another
3 state as harmful to human health or the environment for
4 possible inclusion in the list of chemicals of high concern.

5 Section 15. Identification of priority chemicals.

6 (a) The Department, after consultation with the Agency, may
7 designate a chemical of high concern as a priority chemical if
8 the Department finds that the chemical:

9 (1) has been identified as a high-production volume
10 chemical by the United States Environmental Protection
11 Agency; and

12 (2) meets any of the following criteria:

13 (A) the chemical has been found through
14 biomonitoring to be present in human blood, including
15 umbilical cord blood, breast milk, urine, or other
16 bodily tissues or fluids;

17 (B) the chemical has been found through sampling
18 and analysis to be present in household dust, indoor
19 air, drinking water, or elsewhere in the home
20 environment; or

21 (C) the chemical has been found through monitoring
22 to be present in fish, wildlife, or the natural
23 environment.

24 (b) By February 1, 2011, the Department shall publish a
25 list of priority chemicals in the Illinois Register and on the

1 Department's Internet Web site and shall update the published
2 list whenever a new priority chemical is designated.

3 Section 20. Applicability. The requirements of this Act do
4 not apply to:

5 (1) chemicals not used in children's products;

6 (2) priority chemicals used in the manufacturing
7 process but that are not present in the final product;

8 (3) priority chemicals used in agricultural
9 production;

10 (4) motor vehicles or watercraft or their component
11 parts, except that the use of priority chemicals in
12 detachable car seats is not exempt;

13 (5) priority chemicals generated solely as combustion
14 by-products or that are present in combustible fuels;

15 (6) retailers;

16 (7) pharmaceutical products or biologics;

17 (8) a medical device as defined in the federal Food,
18 Drug, and Cosmetic Act, United States Code, title 21,
19 section 321(h);

20 (9) food and food or beverage packaging, except a
21 container containing baby food or infant formula;

22 (10) consumer electronics products and electronic
23 components, including, but not limited to, personal
24 computers; audio and video equipment; calculators; digital
25 displays; wireless phones; cameras; game consoles;

1 printers; and handheld electronic and electrical devices
2 used to access interactive software or their associated
3 peripherals or products that comply with the provisions of
4 directive 2002/95/EC of the European Union, adopted by the
5 European Parliament and Council of the European Union as
6 now or hereafter in effect; or

7 (11) outdoor sport equipment, including snowmobiles,
8 all-terrain vehicles, personal watercraft, watercraft and
9 off-highway motorcycles, and all attachments and repair
10 parts for such equipment.

11 Section 25. Donations to the State. The Director may accept
12 donations, grants, and other funds to carry out the purposes of
13 this Act. All donations, grants, and other funds must be
14 accepted without preconditions regarding the outcomes of the
15 regulatory oversight processes set forth in this Act.

16 Section 30. Participation in interstate chemicals
17 clearinghouse. The State may cooperate with other states in an
18 interstate chemicals clearinghouse regarding chemicals in
19 consumer products, including the classification of priority
20 chemicals in commerce; organizing and managing available data
21 on chemicals, including information on uses, hazards, risks,
22 and environmental and health concerns; and producing and
23 evaluating information on safer alternatives to specific uses
24 of priority chemicals.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.